

REMARKS

The nature of the present invention was reviewed in the first paragraph of the remarks set out in the response to the preceding Office communication and, so, will not be repeated at this point.

Briefly, the child restraint includes, in addition to support surfaces for the child's torso and legs, first and second integral support flanges that extend upwardly and outwardly a preselected length from and at an obtuse angle with respect to the first and second support surfaces. The side walls 22 and 23 are formed integrally with the first and second shell support flanges 20 and 21 and extend outwardly and downwardly from the support flanges a preselected length which is greater than the length of the support flanges and at an acute angle with respect thereto. The length of the side walls 22, 23 with respect to the support flanges 20 and 21 is clearly shown in Figs. 2 and 5 of the drawings as filed in the original application. It has long been established that material disclosed in the drawings, the written specification and in the originally filed claims cannot form the basis for a new matter rejection when explanatory language is inserted into the specification. It is understood that 35 U.S.C. 132(a) proscribes introduction of new matter into the disclosure. However, the material added to the specification, specifically that referred to in Paragraph 1 of the Examiner's Action, does not constitute new matter since it was disclosed in the drawings of the originally filed application. For example, Paragraph 5.5 in "Patents and the Federal Circuit," Robert L. Harmon – 3rd Ed., states, in part,

"Section 132 of the Patent Act provides that 'no amendment shall introduce new matter into the disclosure of the invention.'¹⁵² Any effort to define new matter is hopeless. It is more useful simply to say that an amendment that conforms the written specification to the original drawing or claims, or that clarifies something important in the original disclosure, does not constitute new matter.'" (underscore added)

Paragraph 3 rejects the claims of the application once again on the basis of Burleigh ('722) in view of Sebel ('419). The Examiner specifically states that Burleigh does not disclose support flanges that extend at an obtuse angle from the support surfaces nor side walls that form an acute angle with respect to the support flanges. Burleigh clearly shows a child support in which the side walls extend outwardly from the support surfaces at right angles with respect to those surfaces and which cannot, therefore, be stacked or otherwise nested.

Sebel relates only to stackable chairs which are, of course, articles that are completely dissimilar from child supporting sets and, specifically, from stackable child supporting seats. In Sebel, the legs 16 and 17 are the parts which support the body holding surfaces of the chair and, in general, Sebel recognizes the physical necessity for structuring geometry of the chair in such a way that parts to be nested must be configured so that they do not interfere with each other. It is submitted that the arm rests 8 and 9 at or near the underside from troughs 23 and 24, will, when considered with the entire rest of the Sebel chair geometry, make it possible for the chairs to be stacked. It is submitted that one having knowledge of the Sebel nesting capability could use that structure to so modify the Burleigh structure as to render the Burleigh child seat of stackable configuration similar to that of applicants.'

In addition, the arm rests of Sebel are not used to provide a supporting base for the chair in the manner in which applicant utilizes the lower edges of the support flanges as support surface.

In view of the facts stated above and for the reasons presented, it is felt that the child restraint stacking device shown in the present application clearly defines patentable invention over the combination of Burleigh and Sebel. Therefore, with amendment of claim 1 to further

specify the geometry of the support flanges, reconsideration and allowance are respectfully requested at this time.

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Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Richard A. Speer', written over a horizontal line.

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